

AGENDA ITEM NO. 1 F
COUNCIL MEETING 5/7/09
APPROVED BY


DEPARTMENT DIRECTOR
CITY MANAGER

May 7, 2009

FROM: TERRY A. BOND, Director
Personnel Services Department

SUBJECT: ADOPT THE TENTH AMENDMENT TO THE FY09 SALARY RESOLUTION 2008-165 TO
AMEND THE VOLUNTARY TIME OFF (VTO) PROGRAM FOR FY10.

KEY RESULT AREA

Employee Satisfaction, Financial Management

RECOMMENDATION

Staff recommends that Council approve the Tenth Amendment to the Salary Resolution 2008-165 to replace the Voluntary Time Off (VTO) program with a Voluntary Leave Time (VLT) program.

EXECUTIVE SUMMARY

This amendment would allow employees, who obtain department approval, to voluntarily take up to 96 hours of scheduled leave/furlough in a fiscal year. Additional time could be declared by the City Manager. Non-exempt employees, those who are eligible for overtime, would have salaries or wages reduced throughout the balance of the fiscal year. Employees exempt from overtime would have a reduction in their annual salary by an amount equivalent to the selected leave. Employees currently approved for VTO would be allowed to continue until their approval period ends or until June 30, 2009.

BACKGROUND

Currently, the Voluntary Time Off (VTO) program allows an employee to take time off without pay for an equivalent of up to 2 days per week. Employees on VTO continue to accrue leave and other benefits as if on paid time. Certain employees are excluded from the program because of the needs of departments or programs.

It is intended that employees currently enrolled in VTO would continue to the end of their approved time period or until June 30, 2009. While the current program was originally designed to be a short term program, there have been instances where employees utilized VTO over several years, essentially becoming part time employees with full time benefits. The proposed revisions to the program make the leave/furlough scheduling more flexible, while eliminating the ability to work part time on a long term basis.

Under the proposed revisions, the program would be renamed as Voluntary Leave Time (VLT). With department approval, an employee would be allowed to schedule up to 96 hours of VLT in a fiscal year, either as a single block of time or individual blocks of time spread throughout the year. Employees in positions eligible for overtime would be considered to be taking leave without pay; however, the employee's paycheck would be reduced by a corresponding amount throughout the balance of the year, allowing the employee to continue to receive pay during the time off. If the employee takes VLT and ends employment with the City before the end of the Fiscal Year, the employee would be required to pay back the balance due. If the employee leaves City employment before taking time, the employee may be eligible for a refund. Employees

who are not eligible for overtime and participate in VLT would have salary incrementally reduced for the entire Fiscal Year. As in the current program, participating employees would continue to accrue leave and other benefits at the same rate.

The proposed revisions include a provision that allows the City Manager to increase the 96 hour cap and expand the program to employees who are otherwise excluded, in response to fiscal needs.

The proposed program revisions are more flexible than the current program in that they allow an employee to take a voluntary leave or furlough in blocks of time rather than limiting it to an ongoing weekly, bi-weekly or monthly time period. It also allows the employee to spread the cost of the program over an entire fiscal year rather than at the times the leave is taken. This flexibility should make the program more attractive to employees, particularly in periods of fiscal stress.

This change is being brought to Council for approval ahead of the FY 10 Salary Resolution to allow the City to provide notice to interested employees and to provide adequate time for VLT requests to be submitted in June prior to the program implementation date of July 1, 2009.

KEY OBJECTIVE BALANCE

The recommended action balances the key objectives of employee satisfaction and financial management. Employee satisfaction is achieved through the ability to take additional leave time with a reasonable pay reduction over the period of a fiscal year. Financial Management is achieved through salary savings.

FISCAL IMPACT

The program should result in cost savings dependent upon the number of employees participating in the program and the amount of leave taken.

April 27, 2009

Attachment: Tenth Amendment to 2008-165 FY09 Salary Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO MAKING THE TENTH AMENDMENT TO RESOLUTION NO. 2008-165 ENTITLED "A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ESTABLISHING RULES FOR THE APPLICATION OF CITY EMPLOYEE COMPENSATION RATES AND SCHEDULES AND RELATED REQUIREMENTS, AND ESTABLISHING COMPENSATION RATES AND SCHEDULES FOR FY09"

RESOLVED, by the Council of the City of Fresno, as follows:

SECTION 1.

Section 23, VOLUNTARY TIME OFF is hereby amended:

SECTION 23. ~~–VOLUNTARY LEAVE TIME OFF~~

Voluntary ~~Leave Time Off~~ is a program by which an employee, **with appropriate approval, can take additional time off during the Fiscal Year with a corresponding reduction in the employee's hourly rate of pay. Except as noted in Section L. below, employees may be allowed to take up to ninety-six (96) hours of leave under this program. This time, which would otherwise be taken as leave without pay, will be compensated by a corresponding reduction in pay averaged over twenty-six (26) pay periods.** ~~voluntarily and temporarily reduce the number of hours worked on a daily, weekly, pay period, or monthly basis. Hours not worked are on a non-paid status.~~ The program is intended to reduce City expenses by allowing employees to take ~~unpaid~~ **additional** leave time without being replaced **and with a corresponding reduction in the employee's hourly rate of pay. FLSA overtime exempt employees may utilize the program through an annual salary reduction rather than as an unpaid leave program.** This program is not intended to increase City costs by offering an advantage to any employee at the City's expense. Participation in the program is subject to the following guidelines:

- A. Participation in this program is not available to the following: Police Department; sworn **safety** personnel in the Fire Department; Bus Drivers; and in work units which rely extensively on the use of wages/contract employees to meet on-going operational requirements, as opposed to special or short-term projects.
- B. Participation in the program is voluntary on the part of the employee, **and must be approved by the appointing authority.**
- C. The employee must **complete and** submit a ~~written request~~ **Voluntary Leave Time Request Form** to participate in the program. **The form must be submitted to and approved by** ~~to~~ the appointing authority. This request must specify **the amount of time off and whether the time will be taken as a block or blocks of time, or intermittently.** ~~the number of hours per day/ week/pay period/month that are proposed to be taken as voluntary time off without pay, as well as the date~~

~~participation in the program is to begin. The request must also identify the impact upon service delivery that is expected, should the time off be granted.~~

- D. The appointing authority, after reviewing the proposed ~~reduced~~ **leave**/work schedule, may either approve, disapprove, or decrease the number of hours proposed to be taken off depending upon the operating needs of the department. If an appointing authority reduces the number of hours proposed to be taken off, the employee may withdraw the request to participate in the program. The department cannot fill behind an employee working a reduced work week with overtime, temporary help, acting pay (Municipal Code Section 3-260), or contract extra help, ~~except in emergency situations with City Manager approval.~~
- E. Voluntary **leave** time-off without pay, **or at different salary rate for exempt employees**, cannot exceed **ninety-six (96) hours in a Fiscal Year except as noted below in Section L.** ~~the equivalent of two days per week.~~
- F. Credits toward Health and Welfare and retirement and leave accruals to which the employee is entitled, shall continue as though the employee ~~were on fully paid status~~ **was not on the voluntary leave time program.** The employee will contribute to the Retirement System as if the employee were working full-time.
- G. This voluntary **leave** time-off without pay program shall:
1. Be available to employees who are otherwise available for the normal performance of their duties;
 2. Be available only to employees **who have been employed by the City for twelve (12) consecutive months and who are either** in permanent ~~full-time~~ positions with permanent status **or are in established unclassified positions, except as noted in B. above or when waived in accordance with L. below** ~~in the assigned class or department;~~
 3. Apply toward time in service for step advancement and toward seniority for purposes of layoff;
 4. Be granted without requiring an employee to first use accumulated vacation, compensatory-time-off, or other paid leave time;
 5. Not be available to an employee who is otherwise on leave without pay status;
 6. Not be available to an employee who is on paid leave which is being exhausted prior to commencing other leave without pay;
 7. Be taken on a scheduled basis that is mutually agreed upon by the appointing authority and the employee; **and,**

8. Not be available to any employee who ~~has been~~ **is being** counseled or **disciplined** under the **FMC**, or a **City Attendance or Sick Leave Policy** and ~~who is currently required to submit a physician's verification.~~

- H. **This program is not to result in overtime. However,** ~~An an~~ employee participating in this program, who is otherwise eligible for overtime, shall **have overtime calculated on the basis of the employees regular rate of pay (the rate of pay in effect before reductions due to this program).** ~~be paid at the rate of one and one-half times the employee's regular hourly rate for actual work performed in excess of 40 hours per work week. Work performed in excess of eight hours in a day or on a scheduled day off will be paid at the straight time rate of pay. An employee not eligible for overtime, who is required to work when otherwise scheduled for voluntary time off, shall be compensated for actual hours worked at the normal rate of pay.~~

- I. **At the end of the Fiscal Year** ~~completion of six months,~~ the department and the City Manager's Office will review the impact that the voluntary **leave** ~~time-off~~ program has had on department operations and the City's financial situation. The City, in its sole discretion, can discontinue **the VLT program** ~~or decrease an employee's amount of voluntary time off,~~ at any time, because of operating needs, or because the **Program no longer is beneficial to the** City's financial situation ~~no longer requires the program.~~

- J. ~~The employee may submit a written request to the appointing authority to withdraw from the program at the completion of the initial six months, and at each three month interval thereafter. The request must indicate that the employee is ready and available to return to work full-time effective immediately. Any other request to withdraw from the program must be based upon a financial hardship not created by the program. Withdrawal from the program or a change in the number of hours requested shall only be granted if Payroll has not yet processed the request, the appointing authority has decreased the number of hours requested, the employee goes out on an extended medical leave of absence during the same fiscal year that the time off request was granted under this provision, or the appointing authority determines that increased workload will not allow the employee to take time off. If the employee withdraws from the program after the beginning of the fiscal year and before completion of the 26 pay periods, appropriate adjustments will be made to the employee's pay. If such adjustments require that an FLSA non-exempt employee reimburse the City, agreement must be reached on a repayment schedule. If an FLSA non-exempt employee's employment with the City ceases prior to completion of the program, any amount due on the program will be taken from the employee's final paycheck. If an employee does not withdraw from the program in accordance with these terms and agreed upon time is not taken, the time is forfeited and no reimbursement will be made.~~ ~~requires appointing authority approval. In a case where a financial hardship withdrawal is not approved by the appointing authority, the employee may request a review by a committee of three individuals selected as follows: one department appointed representative; one employee appointed representative; and one representative mutually agreed upon by the first two~~

~~representatives. The findings and recommendation of this committee shall be forwarded to the City Manager. The decision of the City Manager shall be final.~~

- K. This program is ~~TEMPORARY, and in response to the City's current financial situation.~~ It is not equivalent to job sharing or to PI or PPT positions.
- L. At the discretion of the City Manager, in response to fiscal needs, the VLT hours maximum can be increased and may be extended to employees otherwise excluded in Section G. 2. above.**
- M. This program will only be in effect for ~~FY09~~ **FY10**, unless otherwise extended at the sole discretion of the City.

SECTION 2.

Upon final legislative approval, this resolution shall become effective on July 1, 2009.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2009.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2009

Mayor Approval/No Return: _____, 2009

Mayor Veto: _____, 2009

Council Override Vote: _____, 2009

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Tomik Aghatelian
Deputy

year in which the hours were credited, of any remaining Administrative Leave balance.

Requests for payoff of excess Vacation Leave hours and/or Administrative Leave must be submitted prior to the effective date of the bump or transfer.

- B. Eligible employees in classes listed in Exhibit 2, Section 2.0 who are not participating in the annual leave plan, shall accumulate vacation leave as provided in Fresno Municipal Code Section 3-108, except that subsection (h) shall not apply. Said employees who have been continuously employed less than ten years shall be allowed to accumulate unused vacation leave credit for four hundred (400) hours. Said employees who have been continuously employed for ten years or more shall be allowed to accumulate unused vacation leave credit of five hundred (500) hours. Said employees may, in November of each year, request a cash payment from eight (8) to forty (40) hours of any vacation accrual the employee has acquired prior to the December payroll period, if on October 31st of that year, the employee has a balance of two hundred-forty (240) or more hours of sick leave. All other provisions of Fresno Municipal Code Section 3-108 shall apply.

SECTION 23. -VOLUNTARY LEAVE TIME

Voluntary Leave Time is a program by which an employee, with appropriate approval, can take additional time off during the Fiscal Year with a corresponding reduction in the employee's hourly rate of pay. Except as noted in Section L. below, employees may be allowed to take up to ninety-six (96) hours of leave under this program. This time, which would otherwise be taken as leave without pay, will be compensated by a corresponding reduction in pay averaged over twenty-six (26) pay periods. The program is intended to reduce City expenses by allowing employees to take additional leave time without being replaced and with a corresponding reduction in the employee's hourly rate of pay. FLSA overtime exempt employees may utilize the program through an annual salary reduction rather than as an unpaid leave program. This program is not intended to increase City costs by offering an advantage to any employee at the City's expense. Participation in the program is subject to the following guidelines:

- A. Participation in this program is not available to the following: Police Department; sworn safety personnel in the Fire Department; Bus Drivers; and in work units which rely extensively on the use of wages/contract employees to meet on-going operational requirements, as opposed to special or short-term projects.
- B. Participation in the program is voluntary on the part of the employee, and must be approved by the appointing authority.
- C. The employee must complete and submit a Voluntary Leave Time Request Form to participate in the program. The form must be submitted to and approved by the appointing authority. This request must specify the amount of time off and whether the time will be taken as a block or blocks of time, or intermittently.

- D. The appointing authority, after reviewing the proposed leave/work schedule, may either approve, disapprove, or decrease the number of hours proposed to be taken off depending upon the operating needs of the department. If an appointing authority reduces the number of hours proposed to be taken off, the employee may withdraw the request to participate in the program. The department cannot fill behind an employee working a reduced work week with overtime, temporary help, acting pay (Municipal Code Section 3-260), or contract extra help.
- E. Voluntary leave time without pay, or at different salary rate for exempt employees, cannot exceed ninety-six (96) hours in a Fiscal Year except as noted below in Section L.
- F. Credits toward Health and Welfare and retirement and leave accruals to which the employee is entitled, shall continue as though the employee was not on the voluntary leave time program. The employee will contribute to the Retirement System as if the employee were working full-time.
- G. This voluntary leave time program shall:
 - 1. Be available to employees who are otherwise available for the normal performance of their duties;
 - 2. Be available only to employees who have been employed by the City for twelve (12) consecutive months and who are either in permanent positions with permanent status or are in established unclassified positions, except as noted in B. above or when waived in accordance with L. below;
 - 3. Apply toward time in service for step advancement and toward seniority for purposes of layoff;
 - 4. Be granted without requiring an employee to first use accumulated vacation, compensatory-time-off, or other paid leave time;
 - 5. Not be available to an employee who is otherwise on leave without pay status;
 - 6. Not be available to an employee who is on paid leave which is being exhausted prior to commencing other leave without pay;
 - 7. Be taken on a scheduled basis that is mutually agreed upon by the appointing authority and the employee; and,
 - 8. Not be available to any employee who is being counseled or disciplined under the FMC, or a City Attendance or Sick Leave Policy.

- H. This program is not to result in overtime. However, an employee participating in this program, who is otherwise eligible for overtime, shall have overtime calculated on the basis of the employees regular rate of pay (the rate of pay in effect before reductions due to this program).
- I. At the end of the Fiscal Year, the department and the City Manager's Office will review the impact that the voluntary leave time program has had on department operations and the City's financial situation. The City, in its sole discretion, can discontinue the VLT program at any time, because of operating needs, or because the Program no longer is beneficial to the City's financial situation.
- J. Withdrawal from the program or a change in the number of hours requested shall only be granted if Payroll has not yet processed the request, the appointing authority has decreased the number of hours requested, the employee goes out on an extended medical leave of absence during the same fiscal year that the time off request was granted under this provision, or the appointing authority determines that increased workload will not allow the employee to take time off. If the employee withdraws from the program after the beginning of the fiscal year and before completion of the 26 pay periods, appropriate adjustments will be made to the employee's pay. If such adjustments require that an FLSA non-exempt employee reimburse the City, agreement must be reached on a repayment schedule. If an FLSA non-exempt employee's employment with the City ceases prior to completion of the program, any amount due on the program will be taken from the employee's final paycheck. If an employee does not withdraw from the program in accordance with these terms and agreed upon time is not taken, the time is forfeited and no reimbursement will be made.
- K. This program is not equivalent to job sharing or to PI or PPT positions.
- L. At the discretion of the City Manager, in response to fiscal needs, the VLT hours maximum can be increased and may be extended to employees otherwise excluded in Section G. 2. above.
- M. This program will only be in effect for FY10, unless otherwise extended at the sole discretion of the City.

SECTION 24. – UNUSUAL CIRCUMSTANCES

In any case where, by reason of unusual circumstances, rigid adherence to the foregoing rules would cause a manifest injustice, the City Manager, on recommendation of the appropriate appointing authority and the Director of Personnel Services, may make such order deviating therefrom, as is in the City Manager's judgment, proper to mitigate the injustice.